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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92061715
Party	Plaintiff B.C. Marketing Concepts, Inc., DBA Full Sail Brewing Company
Correspondence Address	CHARLES H DEVOE KOLISCH HARWELL PC 520 SW YAMHILL ST, STE 200 PORTLAND, OR 97204 UNITED STATES docketing@khpatent.com, chuck@khpatent.com, heidi@khpatent.com
Submission	Answer to Counterclaim
Filer's Name	Charles H. DeVoe
Filer's e-mail	docketing@khpatent.com, chuck@khpatent.com, heidi@khpatent.com
Signature	/Charles H. DeVoe/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark Registration No
For the mark
Registered on

4736978
SUDS SESSION
May 12, 2015

B C Marketing Concepts, Inc.,
dba Full Sail Brewing Company,

Petitioner,

v.

Speakeasy Ales & Lagers, Inc.,

Registrant.

Cancellation No. 92061715

PETITIONER'S ANSWER TO COUNTERCLAIMS AND AFFIRMATIVE DEFENSES

For its Answer to Counterclaims in response to the counterclaims set forth in the Answer filed by Speakeasy Ales & Lagers Inc. ("Registrant"), B C Marketing Concepts, Inc., dba Full Sail Brewing Company ("Petitioner"), by and through the undersigned counsel, making reference to the numbered paragraphs in the Answer, states as follows:

Answer to First Counterclaim

21. Petitioner admits the allegations of Paragraph 21.

22. In response to the allegations contained in Paragraph 22, Petitioner denies that “‘session beer’ is the common name for ‘(a) beer that has a relatively low alcoholic content and is therefore suitable for drinking over an extended period.’” In further response to the allegations contained in Paragraph 22, Petitioner admits that a “printout from Oxford Dictionaries website located at www.oxforddictionaries.com” is attached to Respondent’s

Counterclaims as Exhibit 1, and that the contents of Exhibit 1 speak for themselves. To the extent Respondent's allegations contained in Paragraph 22 vary or seek to vary the contents of Exhibit 1, they are denied. To the extent there are any remaining allegations of Paragraph 22, Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about such remaining allegations of Paragraph 22 and therefore denies the same.

23. Petitioner denies the allegations of Paragraph 23.

24. Petitioner admits that the goods identified in United States Trademark Registration No. 3,113,041 are "brewed malt based alcoholic beverages, namely beer, ales and lagers." Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about any remaining allegations of Paragraph 24 and therefore denies the same.

25. Petitioner denies the allegations of Paragraph 25.

26. Petitioner admits that Petitioner has pleaded United States Trademark Registration No. 3,113,041 in the Petition for Cancellation. Petitioner denies the remaining allegations of Paragraph 26.

27. Petitioner asserts that Paragraph 27 is not an allegation that requires an admission or denial. To the extent Paragraph 27 calls for a response, Petitioner denies the allegations of Paragraph 27, and further denies that Respondent is entitled to the specific relief sought in Paragraph 27.

Answer to Second Counterclaim

28. Petitioner admits the allegations of Paragraph 28.

29. Petitioner asserts that Paragraph 29 is not an allegation that requires an admission or denial. To the extent Paragraph 29 calls for a response, Petitioner incorporates by reference the responses of the above referenced paragraphs 21-28 of this Answer to Counterclaims.

30. Petitioner admits that the goods identified in United States Trademark Registration No. 4,224,510 are “beer, ale and lager; brewed malt-based alcoholic beverage in the nature of a beer.” Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about any remaining allegations of Paragraph 30 and therefore denies the same.

31. Petitioner denies the allegations of Paragraph 31.

32. Petitioner admits that Petitioner has pleaded United States Trademark Registration No. 4,224,510 in the Petition for Cancellation. Petitioner denies the remaining allegations of Paragraph 32.

33. Petitioner asserts that Paragraph 33 is not an allegation that requires an admission or denial. To the extent Paragraph 33 calls for a response, Petitioner denies the allegations of Paragraph 33, and further denies that Respondent is entitled to the specific relief sought in Paragraph 33.

Answer to Third Counterclaim

34. Petitioner admits the allegations of Paragraph 34.

35. Petitioner asserts that Paragraph 35 is not an allegation that requires an admission or denial. To the extent Paragraph 35 calls for a response, Petitioner incorporates

by reference the responses of the above referenced paragraphs 21-34 of this Answer to Counterclaims.

36. Petitioner admits that the goods identified in United States Trademark Registration No. 4,224,511 are “beer, ale and lager; brewed malt-based alcoholic beverage in the nature of a beer.” Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about any remaining allegations of Paragraph 36 and therefore denies the same.

37. Petitioner denies the allegations of Paragraph 37.

38. Petitioner admits that Petitioner has pleaded United States Trademark Registration No. 4,224,511 in the Petition for Cancellation. Petitioner denies the remaining allegations of Paragraph 38.

39. Petitioner asserts that Paragraph 39 is not an allegation that requires an admission or denial. To the extent Paragraph 39 calls for a response, Petitioner denies the allegations of Paragraph 39, and further denies that Respondent is entitled to the specific relief sought in Paragraph 39.

Answer to Fourth Counterclaim

40. Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about United States Trademark Registration No. 4,262,584 and therefore denies the same. To the extent that Paragraph 40 intended to identify United States Trademark Registration No. 4,265,584 instead of United States Trademark Registration No. 4,262,584, Petitioner admits the allegations of Paragraph 40.

41. Petitioner asserts that Paragraph 41 is not an allegation that requires an admission or denial. To the extent Paragraph 41 calls for a response, Petitioner incorporates by reference the responses of the above referenced paragraphs 21-40 of this Answer to Counterclaims.

42. Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about United States Trademark Registration No. 4,262,584 and therefore denies the same. To the extent that Paragraph 42 intended to identify United States Trademark Registration No. 4,265,584 instead of United States Trademark Registration No. 4,262,584, Petitioner admits that the goods identified in United States Trademark Registration No. 4,265,584 are “brewed malt-based alcoholic beverage in the nature of a beer; lagers,” and is without sufficient knowledge or information sufficient to form a belief as to the truth about any remaining allegations of Paragraph 42 and therefore denies the same.

43. Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about United States Trademark Registration No. 4,262,584 and therefore denies the same. To the extent that Paragraph 43 intended to identify United States Trademark Registration No. 4,265,584 instead of United States Trademark Registration No. 4,262,584, Petitioner denies the allegations of Paragraph 43.

44. Petitioner denies that Petitioner has pleaded United States Trademark Registration No. 4,262,584 in the Petition for Cancellation, and is without sufficient knowledge or information sufficient to form a belief as to the truth about United States Trademark Registration No. 4,262,584 in the remaining allegations and therefore denies the

same. To the extent that Paragraph 44 intended to identify United States Trademark Registration No. 4,265,584 instead of United States Trademark Registration No. 4,262,584, Petitioner admits that Petitioner has pleaded United States Trademark Registration No. 4,265,584 in the Petition for Cancellation, and denies the remaining allegations of Paragraph 44.

45. Petitioner asserts that Paragraph 45 is not an allegation that requires an admission or denial. To the extent Paragraph 45 calls for a response, and to the extent that Paragraph 45 intended to identify United States Trademark Registration No. 4,265,584 instead of United States Trademark Registration No. 4,262,584, Petitioner denies the allegations of Paragraph 45, and further denies that Respondent is entitled to the specific relief sought in Paragraph 45.

Answer to Fifth Counterclaim

46. Petitioner admits the allegations of Paragraph 46.

47. Petitioner asserts that Paragraph 47 is not an allegation that requires an admission or denial. To the extent Paragraph 47 calls for a response, Petitioner incorporates by reference the responses of the above referenced paragraphs 21-46 of this Answer to Counterclaims.

48. Petitioner admits that the goods identified in United States Trademark Registration No. 4,265,585 are “brewed malt-based alcoholic beverage in the nature of a beer; lagers.” Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about any remaining allegations of Paragraph 48 and therefore denies the same.

49. Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about United States Trademark Registration No. 4,262,585 and therefore denies the same. To the extent that Paragraph 49 intended to identify United States Trademark Registration No. 4,265,585 instead of United States Trademark Registration No. 4,262,585, Petitioner denies the allegations of Paragraph 49.

50. Petitioner admits the allegations of Paragraph 50.

51. Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about United States Trademark Registration No. 4,262,585 and therefore denies the same. To the extent that Paragraph 51 intended to identify United States Trademark Registration No. 4,265,585 instead of United States Trademark Registration No. 4,262,585, Petitioner denies the allegations of Paragraph 51.

52. Petitioner denies that Petitioner has pleaded United States Trademark Registration No. 4,262,585 in the Petition for Cancellation, and is without sufficient knowledge or information sufficient to form a belief as to the truth about United States Trademark Registration No. 4,262,585 in the remaining allegations and therefore denies the same. To the extent that Paragraph 52 intended to identify United States Trademark Registration No. 4,265,585 instead of United States Trademark Registration No. 4,262,585, Petitioner admits that Petitioner has pleaded United States Trademark Registration No. 4,265,585 in the Petition for Cancellation, and denies the remaining allegations of Paragraph 52.

53. Petitioner asserts that Paragraph 53 is not an allegation that requires an admission or denial. To the extent Paragraph 53 calls for a response, and to the extent that

Paragraph 53 intended to identify United States Trademark Registration No. 4,265,585 instead of United States Trademark Registration No. 4,262,585, Petitioner denies the allegations of Paragraph 53, and further denies that Respondent is entitled to the specific relief sought in Paragraph 53.

Answer to Sixth Counterclaim

54. Petitioner admits the allegations of Paragraph 54.

55. Petitioner asserts that Paragraph 55 is not an allegation that requires an admission or denial. To the extent Paragraph 55 calls for a response, Petitioner incorporates by reference the responses of the above referenced paragraphs 21-54 of this Answer to Counterclaims.

56. Petitioner admits that the goods identified in United States Trademark Registration No. 4,265,586 are “brewed malt-based alcoholic beverage in the nature of a beer; lagers.” Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about any remaining allegations of Paragraph 56 and therefore denies the same.

57. Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about United States Trademark Registration No. 4,262,586 and therefore denies the same. To the extent that Paragraph 57 intended to identify United States Trademark Registration No. 4,265,586 instead of United States Trademark Registration No. 4,262,586, Petitioner denies the allegations of Paragraph 57.

58. Petitioner denies the allegations of Paragraph 58.

59. Petitioner denies the allegations of Paragraph 59.

60. Petitioner denies the allegations of Paragraph 60.

61. Petitioner denies the allegations of Paragraph 61.

62. Petitioner admits that the goods identified in United States Trademark Registration No. 4,265,586 are “brewed malt-based alcoholic beverage in the nature of a beer; lagers.” Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about any remaining allegations of Paragraph 62 and therefore denies the same.

63. Petitioner is without sufficient knowledge or information sufficient to form a belief as to the truth about United States Trademark Registration No. 4,262,586 and therefore denies the same. To the extent that Paragraph 63 intended to identify United States Trademark Registration No. 4,265,586 instead of United States Trademark Registration No. 4,262,586, Petitioner denies the allegations of Paragraph 63.

64. Petitioner admits the allegations of Paragraph 64.

65. Petitioner denies the allegations of Paragraph 65.

66. Petitioner admits that Petitioner has pleaded United States Trademark Registration No. 4,265,586 in the Petition for Cancellation, and denies the remaining allegations of Paragraph 66.

67. Petitioner asserts that Paragraph 67 is not an allegation that requires an admission or denial. To the extent Paragraph 67 calls for a response, Petitioner denies the allegations of Paragraph 67, and further denies that Respondent is entitled to the specific relief sought in Paragraph 67.

AFFIRMATIVE DEFENSES

First Affirmative Defense

68. As a result of Petitioner's continuous use of the marks in United States Trademark Registration Nos. 3,113,041 since at least December 1, 2004; 4,224,510, 4,224,511, and 4,265,585 since at least May 10, 2005; 4,265,586 since at least June 24, 2009; and 4,265,584 since at least October 1, 2011 (collectively the "Marks"), the Marks have developed significant goodwill among the consuming public and consumer acceptance of the goods offered by Petitioner in connection with the Marks. Such goodwill and widespread usage has caused the Marks to become well-known and acquire distinctiveness with respect to the Petitioner, and caused the Marks to become a valuable asset of the Petitioner.

Additional Defenses

69. Petitioner reserves the right to amend its answer to assert additional defenses based on information learned or obtained during discovery.

WHEREFORE, Petitioner prays that Registrant's counterclaims be dismissed.

DATED September 8, 2015.

Respectfully submitted,

KOLISCH HARTWELL, P.C.

/Charles H. DeVoe/

Charles H. DeVoe
Registration No. 37305
Customer No. 23581
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679

CERTIFICATE OF ELECTRONIC SUBMISSION

I hereby certify that this correspondence, is being filed electronically with the United States Patent & Trademark Office Trademark Trial and Appeal Board on September 8, 2015.

/Heidi Dutro/

Heidi Dutro

Date of Signature: September 8, 2015

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER TO COUNTERCLAIMS was served on Registrant's attorney via first class mail, in an envelope addressed to:

Scott W. Petersen, Esq.
Holland & Knight LLP
30th Floor
131 South Dearborn Street
Chicago, Illinois 60603

on September 8, 2015.

/Charles H. DeVoe/
Charles H. DeVoe, Reg. No. 37305
Attorney for Petitioner